

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 45

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte FREDERIC CHONIER, FREDERIC QUILLARD,  
JEAN-LOUIS CHEVALIER and MICHEL THEVENET

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Appeal No. 04-0686  
Application No. 09/015,234

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HEARD: May 4, 2004

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Before ABRAMS, STAAB, and NASE, Administrative Patent Judges.  
ABRAMS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1, 2 and 4-7. Claims 3 and 8 have been withdrawn by the examiner as being directed to a non-elected invention.

We REVERSE.

### BACKGROUND

The appellants' invention relates to a safety binding for affixing a ski boot to a ski. An understanding of the invention can be derived from a reading of exemplary claim 1, which appears in the appendix to the Brief.

The single prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

Scheck <u>et al.</u> (Scheck)	4,593,928	June 10, 1986
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Claims 1, 2 and 4-7 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Scheck.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejection, we make reference to the Answer (Paper No. 37) for the examiner's complete reasoning in support of the rejection, and to the Brief (Paper No. 36) and Reply Brief (Paper No. 38) for the appellants' arguments thereagainst.

### OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art reference, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

The appellants' invention is directed to a safety binding for affixing a ski to a ski boot of the type having a projecting sole. The safety binding comprises a jaw having two arms (3, 4) which are independently rotatable so as to pivot laterally oppositely to one another when a ski boot is pushed thereagainst. The arms are so constructed as to have undersides which engage the sole of the boot to restrain it against vertical movement with respect to the arms. As recited in claim 1, the arms also have "bearing means intended to bear on an upper of the ski boot on either side of the ski boot."

The claims stand rejected as being anticipated by Scheck,<sup>1</sup> which discloses, inter alia, a ski boot binding including a jaw having two arms (11, 12) that are independently rotatable so as to open in opposite manner to one another when a ski boot is pressed thereagainst. The arms have an underside (56) which "engages over the sole 39 of the ski boot and holds the sole down" (column 5, lines 34-36). It is the examiner's contention that "bearing means (56) [are] intended to bear on an upper of the ski boot (38) on either side of the ski boot (38)" (Answer, page 3, emphasis added). We agree with the appellants that there is no evidence to support this conclusion. Not only is such not explicitly described in the Scheck specification, but it does not appear from the drawings that such is the case. Thus, Scheck fails to anticipate the subject matter recited in claim 1 in that it does not disclose or teach the claimed "bearing means," and

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<sup>1</sup>Anticipation under 35 U.S.C. § 102(b) is established only when a single prior art reference discloses, either expressly or under the principles of inherency, each and every element of the claimed invention. See, for example, In re Paulsen, 30 F.3d 1475, 1480-1481, 31 USPQ2d 1671, 1675 (Fed. Cir. 1994) and In re Spada, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990).

the rejection of independent claim 1 and dependent claims 2 and 4-7 cannot be sustained.

CONCLUSION

The rejection is not sustained.

The decision of the examiner is reversed.

NEAL E. ABRAMS  
Administrative Patent Judge

LAWRENCE J. STAAB  
Administrative Patent Judge

JEFFREY V. NASE  
Administrative Patent Judge

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